

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JAMES JIRAK and ROBERT)
PEDERSEN,)
)
Plaintiffs,)
) No. 07 C 3626
vs.) Judge Castillo
)
ABBOTT LABORATORIES,)
INC.,)
)
Defendant.)

The videotaped deposition of ANTONIO
TORRES, JR., called by the Defendant for
examination, pursuant to Notice, and pursuant to
the Rules of Civil Procedure for the United States
District Courts, taken before Sandra L. Rocca, CSR,
CRR, at 77 West Wacker Drive, Chicago, Illinois, on
the 25th day of August, 2009, at the hour of
9:48 a.m.

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1 you were a pharmaceutical rep at Abbott?
2 A. Yes.
3 Q. When you first started in the position of
4 a pharmaceutical sales rep, did you have new hire
5 training?
6 A. Yes, yes.
7 Q. Do you remember how long the new hire
8 training was?
9 A. I think it was like three to five weeks.
10 Q. And do you remember what you had to do
11 during the new hire training?
12 A. Yes.
13 Q. What did you have to do?
14 A. Okay, it was learn the products and the
15 competition and a lot of role playing. We had to
16 take tests to get certified on the products so we
17 could promote them.
18 Q. Did you go somewhere for this training?
19 A. We did.
20 Q. Where did you go?
21 A. Lincolnwood, Lincolnshire.
22 Q. So --
23 A. Like 20 minutes away from Chicago, south,
24 southwest from Chicago -- I mean not Chicago, from

1 exchange is taking place of goods, there's a
2 contract, there's some kind of monetary value being
3 exchanged and I think sales was I think a term that
4 Abbott used a lot.
5 Q. Did you have an understanding of how
6 Abbott used the term sales?
7 MR. DiCHIARA: Objection, calls for
8 speculation but if you can answer it, go ahead.
9 THE WITNESS: What's the question again,
10 how they used the word sales?
11 BY MS. KOH:
12 Q. You stated that Abbott used the word
13 sales a lot.
14 A. Okay. I guess in my understanding, you
15 know, when -- you know, when you sell it's like
16 when you go to a car dealership and you take money
17 with you and you sign a contract and, you know,
18 you're negotiating, you know, I want to buy the car
19 for, you know, 300, the guy's telling me no, you
20 know, give me 350, I'll throw this in for you.
21 I've never did that with Abbott, you know, in my 15
22 years, 12 years career there. You know, that's a
23 definition for me in sales and I've never did that
24 at Abbott.

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1 Abbott Park.
2 Q. It was at Abbott Park?
3 A. Yes, yes, correct. But we stayed at the
4 hotel. I forgot the name of the hotel and from
5 there every morning we would -- they would put us
6 in buses and we would go to Abbott Park.
7 Q. Prior to beginning your training at
8 Abbott Park, did you have to do any home study?
9 A. Yes.
10 Q. Do you remember what materials you had to
11 study?
12 A. (Indicating negatively.)
13 Q. No?
14 A. No. I know they gave us a lot of stuff
15 and I think it was a lot of -- you know, just like
16 on the products.
17 Q. So it was information about the products?
18 A. The products, yes, correct.
19 Q. And when you were at Abbott Park, did you
20 receive any training -- any sales training?
21 A. Can you define sales? What's the
22 definition of sales?
23 Q. Well, how would you define sales?
24 A. For me it would be like when there's an

1 Q. Okay. Did -- you stated that Abbott used
2 the word sales a lot?
3 A. (Indicating affirmatively.)
4 Q. Did you have an understanding of how they
5 were using that word?
6 MR. DiCHIARA: Again, objection, calls
7 for speculation but you can answer.
8 THE WITNESS: I guess I was confused
9 because, you know, like I said, you know, that for
10 me, you know, sales is when I go buy a computer and
11 I'm trying to get a deal for a computer. And you
12 know, I never did that at Abbott. I never told the
13 physician okay, give me \$200 and sign this contract
14 and, you know, I'm going to deliver, you know, you
15 know, what you're buying. I never negotiated
16 anything there. For me it was more like -- the
17 word that they used sales meant more like
18 marketing. You know, marketing was all over the
19 place at Abbott.
20 BY MS. KOH:
21 Q. And what's your definition of marketing?
22 A. Marketing is like a commercial. Like
23 they used to tell us at Abbott, you know, if you
24 repeat your message five, seven times, here's the

1 script, that's why we're doing role plays, so when
 2 you do go out there, you know, you're making sure
 3 you hit the core message. The more they hear it,
 4 the more they're going to recall it.

5 Q. So that's your definition of marketing?

6 A. No, you asked me what was the definition
 7 of Abbott's marketing, what did I think was the
 8 definition.

9 Q. Yeah, what is your definition of
 10 marketing?

11 MR. DiCHIARA: Objection. Now, back
 12 then? It's not really clear but you can answer if
 13 you understand the question.

14 BY MS. KOH:

15 Q. What is your current definition of
 16 marketing?

17 A. Getting people exposed to a product.

18 Q. Okay.

19 A. You know, getting them I guess aware of a
 20 product and I think that's the difference between
 21 getting them aware of a product to where you're
 22 actually trying to sell them a product.

23 Q. So you saw your role as a pharmaceutical
 24 representative as more of a marketing role?

1 know, i may detail a physician ten different times
 2 a whole year, maybe two years, one day I see that
 3 he's finally starting to prescribe Nasonex and I
 4 ask him what happened. He goes oh, you know, a
 5 doctor from Mexico, you know, when I went to Mexico
 6 on vacation was using your drug, that's why I'm
 7 using it. You know, so many variables, you know.
 8 You have managed care.

9 Q. Are your visits to the doctors one of the
 10 variables that you believe influence physicians to
 11 write a certain product?

12 A. You deal with physicians?

13 MR. DiCHIARA: Just answer the question.
 14 You can't ask questions.

15 THE WITNESS: Okay. Okay. Physicians,
 16 they're a special breed. I mean physicians have
 17 this big ego. You know, physicians is not going to
 18 do what you tell them to do because of their ego.
 19 So I don't -- you know, I would like to think that
 20 yeah, you know, I influenced these physicians. But
 21 when it comes down to it, their wives can't even
 22 influence for them to put on a shirt for a dinner
 23 program so we're not going to be able to influence
 24 their physicians.

1 BY MS. KOH:

2 Q. So you believe that you did not have any
 3 influence on the physicians that you visited?

4 A. Yeah, we had some influence and if it
 5 wasn't for us that they wouldn't be exposed to
 6 Biaxin, you know, maybe because -- I can't
 7 remember, oh, man, you know, Tony has Biaxin so
 8 when I'm looking at the commercial of Biaxin maybe
 9 he'll pay a little bit more attention to it because
 10 he remembers, you know, Tony the Biaxin rep. But
 11 you know, influence on getting a doctor to -- he's
 12 not going to listen to me, man. I went to DeVry,
 13 you know, and he went to so many years of medical
 14 school.

15 Q. So do you believe that you did influence
 16 the physician or do you believe that you didn't
 17 influence the physician in your role as a
 18 pharmaceutical sales rep?

19 A. Okay. Can you define influence?

20 Q. Do you think that your role as a
 21 pharmaceutical sales rep played any part in the
 22 physician prescribing a product that you were
 23 promoting?

24 A. I think -- I think that it may have, but

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1 you know, there were so many variables out there,
2 direct marketing, I have four or five different
3 counterparts, what's not to say that it was my
4 other counterparts. What's not to say it was a
5 continuing education program he attended. What's
6 not to say it was a commercial he attended. What's
7 not to say that it was a mailing that they received
8 from Abbott. You know, maybe guidelines that he
9 picked up one day, maybe a colleague that he has in
10 a medical -- at a medical school. You know, I like
11 to think -- yeah, I like to think, yeah, I had a
12 great influence on them, but it's not like that in
13 this industry. You know, this industry, you know,
14 we don't have all those years of education and
15 medical school behind us. You know, we're a
16 commercial and like Abbott said, the more we repeat
17 that commercial the more likely they're going to
18 recall the message. That was just the -- you know,
19 a commercial.

20 Q. Okay. The drugs that you were
21 responsible for can only be obtained by a patient
22 with a prescription, right?

23 A. Yes, correct.

24 Q. So would it be logical that if Abbott

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1 see this guy in this quarter six different times
2 and if we didn't see them six different times, you
3 know, Abbott would come down on us and say what
4 happened, you only saw him three times this
5 quarter.

6 Q. Were there --

7 A. And to be ranked, you know, better than
8 my colleagues.

9 Q. Were there times where Abbott would ask
10 you to visit a doctor a certain number of times but
11 you weren't able to do so?

12 A. Yeah, yeah.

13 Q. Would that happen more often than not?

14 A. I think early on we had good access to
15 physicians. And you know, in the later years when
16 there was, you know, so many pharmaceutical reps
17 out there, that's when it was a little bit more
18 difficult to get in and I think that, you know,
19 when you were saying -- well, go ahead.

20 Q. What do you mean by later on?

21 A. Later on in my career I think it was a
22 little bit more difficult to get in to see the
23 physicians.

24 Q. Do you know approximately -- are you

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1 wanted to increase the amount of prescriptions
2 written for a certain product, they would target
3 the physicians?

4 MR. DiCHIARA: Objection. I don't
5 understand the question, but if you understand it
6 you can go ahead and answer.

7 THE WITNESS: I don't think -- I can't
8 talk about that because I'm still employed at a
9 pharmaceutical company and that's all confidential
10 information.

11 BY MS. KOH:

12 Q. I'm sorry. Maybe you didn't understand
13 my question. If Abbott wanted to increase the
14 sales of a product, would it make sense to target
15 the people who can write prescriptions for that
16 product?

17 A. Yes.

18 Q. Okay. So even -- so was it your goal as
19 a pharmaceutical representative to convince your
20 physicians to write your product?

21 A. My goal was to do whatever Abbott told me
22 to do and one of the big priorities was frequency.

23 Q. What do you mean by frequency?

24 A. The frequency that, you know, you need to

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1 talking about --

2 A. Today.

3 Q. -- the year 2000?

4 A. Yeah, today, the last three years, last
5 three, four, five years, you know, it's been
6 getting more difficult not only in Chicago but I
7 think all over the country to get in and see
8 physicians.

9 Q. So in the last three to five years has it
10 been difficult for you to visit physicians the
11 amount of times that you were required to?

12 A. Uh-huh.

13 MR. DiCHIARA: You have to say yes.

14 THE WITNESS: Yes. I'm sorry. Yes.

15 BY MS. KOH:

16 Q. You mentioned a core message?

17 A. Yes.

18 Q. Can you tell me again what that was?

19 A. The core message is like something like
20 you have there like, you know, you have a sheet of
21 paper there, you have the protocol and you have to
22 ask question one and you cross it out like you've
23 been doing and you go to the next question and you
24 go to the next question and then you go to the next

1 A. The goals that we set are to increase
2 market share.

3 Q. Were there any other personal goals that
4 you set?

5 A. Frequency was a big one, that was huge.

6 Q. Frequency in terms of the amount of times
7 you saw a particular doctor?

8 A. Yes, and then what we were going to talk
9 to them about.

10 Q. What do you mean what you were going to
11 talk to them about?

12 A. Yeah, because they would always tell us
13 with this doctor you're going to start out with
14 this drug because, you know, he's higher potential.
15 The next doctor, he's higher potential for Prevacid
16 so that's going to be your lead product. So the
17 lead product varied and everything wasn't a report
18 that we looked at and said okay, this doctor --
19 before I went in I would look at his numbers and,
20 you know, that were included there, okay, this guy
21 I'm going to start out with this drug, with
22 Prevacid. Next office called, oh, this guy's lead
23 product is Biaxin.

24 Q. So this was based on their potential to

1 MR. DiCHIARA: Objection to the term
2 perspective. If you understand it, go ahead.

3 THE WITNESS: I don't understand it.

4 BY MS. KOH:

5 Q. Did all physicians have a different
6 opinion about the drugs that you were responsible
7 for?

8 A. Yes.

9 Q. And did you handle doctors differently
10 based on what their opinion was on that drug?

11 A. Everything was scripted. When they would
12 say okay, you run into a doctor who has this
13 opinion, this is the road you're going to travel.
14 This is the way you're going to deal with that
15 objection. Abbott called them objections.

16 Q. And how would you find out what opinion a
17 doctor had on a particular product?

18 A. Abbott had a great -- they would give us
19 questions to ask them, you know. They had nice
20 scripts of probing questions to ask so we could
21 uncover, you know, their objections. So if
22 question one didn't work, I would just go down the
23 list. I would ask the second probe question.

24 Q. Would you choose which question that you

1 prescribe a particular drug?

2 A. Correct, yes. And we had a lot of other
3 goals too like maybe like I wanted to, you know,
4 spear a regional program that I would take in
5 charge of putting it together.

6 Q. Okay. What's an example of a regional
7 program that you put together?

8 A. Maybe back in the day when we were able
9 to take them out to baseball games we would invite,
10 you know -- we would get maybe like I don't know
11 100 tickets for doctors and their families and
12 then, you know, I would be the one who would be
13 coordinating that for us with other district reps.

14 Q. You said that that's not allowed anymore?

15 A. It's not allowed anymore.

16 Q. Do you know when that rule came into play
17 that you couldn't take them out for these things
18 anymore?

19 A. I don't recall, but I know in the last
20 five years or so.

21 Q. Okay. When you were speaking to the
22 different doctors that you were visiting, is it
23 true that not all physicians have the same
24 perspective on the drug you were selling?

1 wanted to ask out of that list?

2 A. Once again, Abbott would tell us okay
3 these are the three choices you have if you get
4 this objection. So they weren't my choices, you
5 know, Abbott's telling me you have three choices or
6 two choices.

7 Q. In terms of dish -- wait. So if a doctor
8 had an objection, Abbott would give you three
9 choices in terms of answers?

10 A. Yeah -- no, it may not be specifically
11 three choices, but they would tell us how to answer
12 it.

13 Q. Okay.

14 A. And then if we didn't get that objection
15 that we were looking for, they would have another
16 open end probe for us to ask. Everything, you
17 know, was through training. We used to rehearse
18 everything for training. We used to get up and
19 detail, okay guys, I'm going to throw an objection
20 at you guys and the trainers would sit back and
21 evaluate us on those. When you get this objection
22 on, you know, Biaxin's a big gun. This is the way
23 you have to answer it. If you get an objection on
24 side effect profile, this is what we're looking

28 (Pages 106 to 109)

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1 you know, weekly basis. Sometimes I may just have
 2 maybe, you know five, ten -- it depends on the
 3 products that you sell because when you sell, you
 4 know, Biaxin and you have, you know, the
 5 respiratory months which are, what, like four
 6 months out of the year, you know, you're out there
 7 working hard and you're out there early and you're
 8 out there doing breakfasts, you're out there
 9 working in the evenings, you're out there working
 10 in the weekends.

11 But if you have a drug like
 12 cardiovascular where it's more chronic and you
 13 don't have to worry about, you know, your acute
 14 patients like Biaxin, then they were saying during
 15 the respiratory season I think like that's when you
 16 -- that's when the doctors are going to write 60,
 17 70 percent of your prescriptions. It depends, you
 18 know, on this job it's not like when I worked at
 19 Jewel I had a time card.

20 Q. Right. So there were certain times of
 21 the year for a drug like Biaxin where you were
 22 working harder because doctors were prescribing
 23 more of that drug?

24 A. Yeah, see because -- yeah, Abbott would

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1 field would vary based on the drug that you sold,
 2 is that what you said?

3 A. No, no.
 4 Q. Okay.
 5 A. It's not going to vary. I'm going to be
 6 there, you know, anywhere from, you know, seven,
 7 eight hours a day. Not every day you're going to
 8 be out there, you know, your eight hours in front
 9 of a doctor, you know, kind of what I'm saying.
 10 You may go into a doctor's office and you're
 11 sitting there and you're waiting to see him for an
 12 hour and a half and then he comes out and they tell
 13 you we're not going to see you today. Just because
 14 I didn't see that doctor doesn't mean I wasn't
 15 working, I wasn't sitting -- I wasn't sitting in
 16 his lobby waiting to see him.

17 Q. Okay.
 18 A. You know.
 19 Q. But what were you -- with respect to
 20 drugs like Biaxin, when you were saying that there
 21 are certain times of the year where it's busier,
 22 were you running more programs?

23 A. Yeah, if you look at those behavioral
 24 reports, you'll see on there that a lot of behavior

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1 always want us to work, you know, eight hours out
 2 in the field calling on doctors. You know, I heard
 3 that from day one from Abbott. You know, the good
 4 reps are going to be out there eight hours a day,
 5 you know, eight hours a day and you know, you're
 6 going to get home and that's when you're going to
 7 do the paperwork -- your paperwork or you're going
 8 to do this or you're going to do that.

9 Q. But in reality, how was it? Did you work
 10 certain times of the year more than others?

11 A. I worked all the time. You know I went
 12 to DeVry. I sometimes -- you know, I had to read
 13 things two three times before I comprehend things.
 14 Things don't come easy to me. So you know and then
 15 in this profession too we don't have a secretary.
 16 We want to send a fax, you know, we don't have no
 17 help. You know, we want to set a program, you
 18 know, we have to go in and check out the venue, the
 19 restaurant, pick out the menu.

20 Q. Okay.

21 A. You know, it's -- this isn't a job that
 22 you're just going to work eight hours and that's
 23 it.

24 Q. But is it true that your time in the

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1 reports they'll say that I worked weekends. And
 2 then we were required to work weekends, you know,
 3 in those -- in the respiratory season and work
 4 evening hours.

5 Q. So that would be mostly during
 6 respiratory season?
 7 A. Respiratory season and whenever. This
 8 job you have to be flexible. If there's a doctor
 9 that comes in, you know, from 4:00 to 7:00 and you
 10 have to find time to see him. This isn't a job
 11 that's from eight to five. I wished it was. It
 12 would have been, you know, nice.

13 Q. Was your strategy different when you were
 14 selling Biaxin versus a drug that dealt with a more
 15 chronic condition?

16 A. Yeah, depended on what the direction from
 17 Abbott was. You know, everything's scripted from
 18 Abbott so it depends.

19 Q. But the strategy was a little bit
 20 different depending on the drug?

21 A. Yeah, definitely. It also depended on
 22 what Abbott told us to -- how to sell it, the
 23 strategy would change because we don't come up with
 24 the marketing messages or the strategies, you know.

30 (Pages 114 to 117)

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1 this doctor's even better to see on Thursday.

2 Q. And if you grouped the doctors into zip
3 codes that would limit the amount of driving that
4 you would have to do between doctors, is that
5 right?

6 A. No, because this job you really have to
7 be flexible. You may have a phone call or you're
8 maybe on the north side of Chicago and you're
9 getting a phone call from somebody from the south
10 side of Chicago that they need samples or else, you
11 know, maybe you had a program and, you know --
12 there's always something going on. Or maybe you
13 got that answer that you were looking for from
14 medical so, you know, they want you to get that
15 information. You drop whatever you're doing and go
16 see that doctor and answer his question. So we're
17 not just set on that schedule.

18 Q. Okay. So there are times where you have
19 to be flexible and?

20 A. This -- most of the time you have to be
21 flexible.

22 Q. Okay. So you don't necessarily follow a
23 routing schedule? I mean you have the routing
24 schedule, but you don't necessarily follow it all

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1 like, okay, you know what, I didn't hit -- last
2 time I only hit these two core messages. That's
3 something that they used to preach to us as well.
4 You know what, try to hit just two core messages.
5 Don't go through the whole thing. Hit two messages
6 and then on your next call you're going to continue
7 the call. How much of a continuance is that,
8 you're going to hit the next two, the following two
9 core messages.

10 Q. Did you have more than one core message
11 for each product?

12 A. We had one core message, but within that
13 core message you had maybe, you know, five
14 different points.

15 Q. Okay. So when you're describing what you
16 have to do with the doctor, do you mean that you
17 had to hit a couple of the points in the core
18 message during one visit?

19 A. Okay, this is how it works, what happens
20 is that, you know, Abbott gives us scripts on
21 objections. And when we go in there and we
22 discover an objection, we have a script for that
23 specific objection. And then under that script
24 that they give us, you know, you're going to have

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1 the time?

2 A. No, no. You know, if something happens
3 like that, you know, out of the ordinary. You
4 know, if something happens like, okay ideally, I'm
5 going to be in week one, but you know, if I had a
6 lunch scheduled where these guys were already
7 booked up for my week one, but I was able to get a
8 lunch scheduled, you know, in week three for that
9 week, I'm going to jump over to week three and have
10 my lunch.

11 Q. So you would flip those days?

12 A. Yeah, yeah, yeah. It depends on the
13 appointments that you were able to get with the
14 doctors. I can't say no, Doctor, I want to see you
15 only on these days. It doesn't work that way.

16 Q. How would you decide what you're going to
17 talk about with your particular doctor?

18 A. I would look at -- well, you know what,
19 Number 1, Abbott told us, you know, that -- I
20 forgot what it was -- like if the doctor would hear
21 our core message five to seven times, you know,
22 that they would recall the message. So repetition
23 was good. And then sometimes, you know, when you
24 would look at your post-call notes and you would be

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1 four, five points that you want to discuss with
2 that physician.

3 So today I was in here to see you, but I
4 was only able to touch up on the first two points
5 of that objection and the nurse called you away.
6 So my next visit I'm going to look in the computer
7 and I'm going to look at the drop down post-call
8 notes and I'm going to see that I only checked the
9 first two points. So my next visit I'm going to
10 hit the third point. Protocol.

11 Q. So are you supposed to address the
12 doctors' objections or are you supposed to
13 communicate the core message to the doctor?

14 A. Those are two of the same.

15 Q. Okay.

16 A. While I'm addressing their objection, I'm
17 also addressing the core message because on that
18 script they tell us address the objection and then
19 go back to the core message. Everything's
20 scripted.

21 Q. Okay. So there are certain situations
22 when you're at a doctor's office where they give
23 you some sort of question about the drug. Does
24 that question -- is that question an objection? Is

36 (Pages 138 to 141)

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1 A. Not that often. Maybe once a week or
 2 something.

3 Q. How about when you were in Wisconsin?

4 A. In Wisconsin I don't know, two three
 5 times a week maybe. It used to depend. I'm
 6 telling you it kind of depends on what he had going
 7 on as well too.

8 Q. Okay. What would you typically speak to
 9 your district manager about?

10 A. Just, you know, frequency, you know, make
 11 sure, you know, you hit these guys and just kind of
 12 like, you know, what's going on with this program,
 13 you know, what's going on with this doctor, why
 14 isn't he prescribing.

15 Q. When your district manager asks you about
 16 a particular doctor that wasn't prescribing, like
 17 what are the reasons I guess that you would give
 18 for a doctor not prescribing your product?

19 A. Objections, you know. They -- his
 20 objection is managed care, he's getting too many
 21 calls from managed care. He wants to spend time
 22 treating the patients, not on the phone.

23 Q. And would your district manager give you
 24 advice on how to address those objections?

1 counterparts?

2 A. Yes.

3 Q. Would your counterparts have the same
 4 list as you?

5 A. Sometimes.

6 Q. When would they not have the same list as
 7 you?

8 A. Because maybe they had more focus on
 9 different products than I did.

10 Q. So they were -- they had more focus on a
 11 different drug you mean?

12 A. Yeah.

13 Q. Okay.

14 A. Or their lead product may be, you know,
 15 this product versus this product. There was always
 16 a few differences. Maybe they called a little bit
 17 more on pediatrics because once again, Abbott wanted you
 18 to have a good relationship. It was all about
 19 rapport. So if you had one rep just constantly
 20 calling on the pediatrics and the other guy's focusing a
 21 little on the pediatrics but not as much but more on
 22 primary care.

23 Q. Okay. And once you received this list,
 24 would you then set up your routing schedule?

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1 A. Yes.

2 Q. Did you receive a list of doctors that
 3 you had to call on from Abbott?

4 A. Correct.

5 Q. Do you remember how many doctors were on
 6 this list when you were in Chicago as a
 7 cardiovascular med rep?

8 A. I don't remember. Could be anywhere from
 9 100 to 300.

10 Q. And how often would you receive this list
 11 from the company?

12 A. On a quarterly basis I think it was or
 13 three times a year. I forgot. But there was times
 14 where our year was divided by semesters maybe, you
 15 know by quarters, maybe three.

16 Q. So it just kind of varied depending?

17 A. Yeah, the 15 years or 12 years that I did
 18 this with Abbott it just -- you know, every time
 19 you restructure and there's everything, you know,
 20 just depends on what's going on.

21 Q. Would you then go over this list that you
 22 received from Abbott?

23 A. Yes.

24 Q. Would you go over it with your

1 A. Correct. What we would do is -- yeah,
 2 I'd just look at the docs that we could see and
 3 then the docs that we couldn't see and then just
 4 set up our routing schedule.

5 Q. What do you mean docs that you could see
 6 and docs that you couldn't see?

7 A. We talked about this before.

8 Q. Oh, in terms of like --

9 A. If they're deceased.

10 Q. So you would take this list and then you
 11 would delete the people that you couldn't see off
 12 of this list?

13 A. If we were able to, yes. But sometimes
 14 what happened was sometimes some of those doctors
 15 that we thought we were going to take off the list
 16 would kind of reappear. It was like wait a minute.
 17 I thought we took this guy off the list. He's
 18 dead. But he came back on the list. So it was
 19 kind of like going over the list and from there we
 20 would go over our routing schedule.

21 Q. Could you add people to the list at all?

22 A. Yeah, sometimes to replace those guys who
 23 were deceased or who were retired or who moved.

24 Q. Who would you replace these guys with?

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1 A. Correct.

2 Q. Okay. And then 2003, all star ranking is
3 10 out of 44. What is that based on, do you know?

4 A. That's based on those numbers we just
5 went over.

6 Q. So were there 44 people that you were
7 competing against?

8 A. Yes.

9 Q. And were they also cardio med reps?

10 A. Yes.

11 Q. Were they in your -- was it across the
12 nation?

13 A. I don't remember if it was only region or
14 maybe -- I don't remember. I don't remember.

15 Q. Okay. What does CVR represent, do you
16 know?

17 A. Cardiovascular representative.

18 Q. Under territory management, the second
19 core job responsibility listed it states that Tony
20 was familiar with all required reports EPP, PPP,
21 TCR. What is EPP?

22 A. EPP I don't remember. There was just a
23 bunch of reports they used to give us and, you
24 know, just market share, you know for the quarter,

1 terminology that the company uses. You know,
2 there's a script and protocols for everything. You
3 know, just saying back to you it's just, you know,
4 knowing all the protocols because once, you know,
5 you don't know something and then it's going to be
6 Tony, how could you not know and this is when they
7 put this down.

8 BY MS. KOH:

9 Q. Do you agree that your manager asked you
10 to be more innovative under this performance
11 assessment?

12 A. Yeah, but the definition of being
13 innovative for Abbott is knowing your protocols and
14 knowing your scripts.

15 Q. So that's what you believe Abbott's
16 definition of innovative is?

17 A. Oh, yes. Oh, definitely. Oh, yeah.

18 Q. And it says, "He relied on his strong
19 teammates to initiate activities beyond his daily
20 call quota." Did you not initiate a lot of
21 activities?

22 A. We work as a team and, you know, some
23 people have the need to get the recognition and
24 others don't. I'm not one of those.

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1 for the week.

2 Q. Do you know what PPP is?

3 A. Yes.

4 Q. What is that?

5 A. That's the report that we talked about
6 that looks at the doctor's managed care and looks
7 at his trends.

8 Q. Do you know what it's actually -- what
9 PPP actually stands for?

10 A. I knew once, but you know, too many
11 acronyms in this industry.

12 Q. Do you know what TCR is?

13 A. I don't remember.

14 Q. Okay. On page 3 of this assessment this
15 is evaluating your self development. The last
16 sentence in the assessment says, "In 2004 Tony
17 needs to be more innovative and perform his duties
18 as a sales representative in a more diligent
19 fashion." Do you believe that you had to be
20 innovative when you were a sales representative?

21 MR. DiCHIARA: Objection. He didn't
22 write that, but go ahead, you can answer.

23 THE WITNESS: You can't be innovative in
24 this position, you know. That's just, you know,

1 Q. So your teammates initiated more
2 activities than you did?

3 A. Not necessarily. There's always going to
4 find something in these assessment reports. So you
5 know, they'll put down whatever pretty much, you
6 know.

7 Q. So you disagree with the statement from
8 your manager that you relied on your strong
9 teammates to initiate activities beyond your daily
10 call quota?

11 A. Correct.

12 Q. Can you turn to page 4 under -- page 4 of
13 the assessment under goals?

14 A. Okay.

15 Q. The first box starting in the second
16 sentence says, "Improvement needs to be made in
17 completing expense reports in a timely manner on a
18 consistent basis." Did you have a hard time
19 completing expense reports on time?

20 A. Maybe at that specific time maybe yes.
21 But you have the rest of the 12 years that I've
22 been there?

23 MR. DiCHIARA: Just answer the question.
24 Don't --

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1 representatives in the doctors' offices that you
 2 visited?

3 A. No.

4 Q. Okay. So you wouldn't know what
 5 individuals that were outside your district did on
 6 a -- let me rephrase that.

7 You wouldn't have personal knowledge
 8 about what Abbott pharmaceutical reps that were not
 9 in your district would be doing on a day-to-day
 10 basis, right?

11 A. Not true.

12 Q. What do you mean by not true?

13 A. I would know what they were doing on a
 14 day-to-day basis even though I would not see them.

15 Q. Right.

16 A. Because I spent, you know, five weeks in
 17 initial sales training or maybe a week in this kind
 18 of training. We were in the same region, but maybe
 19 they were located in, I don't know, Indiana. We
 20 still, you know, when we got together in meetings
 21 they were my roommates so we would sit there, we
 22 would talk. We had reports to do, we would bounce
 23 ideas off one another and we were constantly
 24 talking to other reps in our district and other

1 A. No. Just feel that, you know, we worked
 2 hard and, you know, I worked for Abbott for 15
 3 years and I just feel that I'm entitled for, you
 4 know, the after hours that I put in.

5 Q. Prior to this lawsuit, have you ever
 6 filed a charge or complaint against Abbott?

7 A. No.

8 Q. Do you have any other complaints against
 9 Abbott for things that happened during the time you
 10 were employed by the company?

11 A. No, Abbott's a great company. My dad
 12 worked there for 35 years. I still wear an Abbott
 13 watch. And I want Abbott to do well, you know. I
 14 have stock in Abbott. I have no complaints, great
 15 company.

16 MS. KOH: Okay. I'm just going to take a
 17 couple of minutes. And then --

18 VIDEOGRAPHER: Off the video record.

19 3:47.

20 (Short recess.)

21 VIDEOGRAPHER: We're back on the video
 22 record. It's 3:50 p.m.

23 MS. KOH: I don't have any additional
 24 questions. Do you have any?

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1 regions.

2 Q. Did you know when they started their day?

3 A. Yeah, yeah. Oh, yeah, we talked about
 4 that.

5 Q. But would you know on a particular day
 6 let's say, you know, January 10, 2005, would you
 7 know on that day what time that sales rep that was
 8 not in your district started their day?

9 A. No.

10 Q. Okay. And you wouldn't know when that
 11 sales rep ended their day on that particular day
 12 either, right?

13 A. No.

14 Q. Do you know whether anyone else has
 15 consented to be a plaintiff in this lawsuit?

16 A. I don't know.

17 Q. Have you talked to anyone about this
 18 lawsuit since the lawsuit was filed besides your
 19 attorney?

20 A. I think I talked to -- I think I told my
 21 brother and my wife about it.

22 Q. Other than failing to pay overtime, is
 23 there anything else that you believe Abbott did to
 24 deprive you of your pay?

1 MR. DiCHIARA: I just have a few
 2 questions.

3 EXAMINATION

4 BY MR. DiCHIARA:

5 Q. Mr. Torres, during your career at Abbott
 6 did you ever supervise anybody?

7 A. Yes.

8 Q. Who did you supervise?

9 A. Oh, supervise. Was like that a
 10 supervisor or kind of like a mentor thing?

11 Q. No, like a supervisor?

12 A. No.

13 Q. Did you have any input in developing
 14 company-wide policies for Abbott?

15 A. No.

16 Q. Did you develop or have any role in
 17 developing company-wide sales strategies for
 18 Abbott?

19 A. No.

20 Q. Did you have any role in developing
 21 company-wide marketing strategy for Abbott?

22 A. No.

23 MR. DiCHIARA: That's all I have.

24 THE WITNESS: Thank you.